

AMENDED IN ASSEMBLY APRIL 24, 2006
AMENDED IN ASSEMBLY MARCH 28, 2006
AMENDED IN ASSEMBLY MARCH 14, 2006
AMENDED IN ASSEMBLY FEBRUARY 28, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1870

Introduced by Assembly Member Lieber
(Principal coauthor: Assembly Member Montanez)
**(Coauthors: Assembly Members *Evans*, *Hancock*, *Shirley Horton*,
Jones, *Karnette*, *Koretz*, *Leno*, *Oropeza*, *Pavley*, and *Saldana*)**

January 18, 2006

An act to amend Section 44021 of, and to add Section 44012.1 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1870, as amended, Lieber. Air pollution: motor vehicle inspection and maintenance.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department. Existing law prohibits the operation of a motor vehicle in a manner that results in the escape of excessive smoke, flame, gas, oil, or fuel residue.

This bill would require the Department of Consumer Affairs to incorporate a visible smoke test into the motor vehicle inspection program by January 1, 2008, so that any visible smoke from the

tailpipe or crankcase of a motor vehicle during an inspection would result in a failure of the test. The bill would provide that steam resulting from condensation by itself shall not lead to an inspection failure. The bill would authorize a motor vehicle owner who disputes the failure of a visible smoke test to seek resolution of the matter by contacting the state-designated referee. The bill would require the department, in consultation with the State Air Resources Board and interested parties, to adopt regulations to implement these provisions.

(2) Existing law establishes the Inspection and Maintenance Review Committee to analyze the effect of the improved inspection and maintenance program on motor vehicle emissions and air quality, as specified. Existing law requires the review committee to submit periodic written reports to the Legislature and the Governor on the performance of the program, including quantification of the reduction in emissions and improvement in air quality attributed to the program, and make recommendations on program improvements at least every 12 months.

This bill would require the review committee, on or before July 1, 2010, to include a discussion of the effectiveness of the visible smoke test component of the inspection and maintenance program in its periodic reports to the Legislature and the Governor, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44012.1 is added to the Health and
2 Safety Code, to read:
3 44012.1. (a) The department shall incorporate a visible
4 smoke test into the motor vehicle inspection program by January
5 1, 2008. Any visible smoke from the tailpipe or crankcase of a
6 motor vehicle during an inspection constitutes a failure. Steam
7 from condensation by itself shall not lead to an inspection failure.
8 (b) If an owner of a motor vehicle disputes the failure of a
9 visible smoke test, the owner may seek resolution of the dispute
10 from the state-designated referee.
11 (c) The department, in consultation with the state board and
12 interested parties, shall adopt regulations to implement this
13 section.

1 *(d) If the implementation of the visible smoke test required by*
2 *subdivision (a) requires modification of the Emission Inspection*
3 *System software or Vehicle Information Database, that*
4 *modification shall be performed as part of the ordinary, periodic*
5 *upgrade to these systems.*

6 SEC. 2. Section 44021 of the Health and Safety Code is
7 amended to read:

8 44021. (a) (1) The Inspection and Maintenance Review
9 Committee is hereby created to analyze the effect of the
10 improved inspection and maintenance program established by
11 this chapter on motor vehicle emissions and air quality. The
12 functions of the review committee shall be advisory in nature and
13 primarily pertain to the gathering, analysis, and evaluation of
14 information.

15 (2) The members of the review committee shall receive no
16 compensation, but shall be reimbursed by the department for
17 their reasonable expenses in performing committee duties. The
18 state board and the department shall provide the review
19 committee with any necessary technical and clerical support in its
20 evaluation and study.

21 (3) (A) The review committee shall consist of 13 members,
22 nine to be appointed by the Governor, two by the Senate
23 Committee on Rules, and two by the Speaker of the Assembly.
24 All members shall be appointed to four-year terms, and the
25 Governor shall appoint from among his or her appointees the
26 chairperson of the review committee.

27 (B) The appointees of the Governor shall include an air
28 pollution control officer from an enhanced program
29 nonattainment area, three public members, an expert in air
30 quality, an economist, a social scientist, a representative of the
31 inspection and maintenance industry, and a representative of
32 stationary source emissions organizations.

33 (C) The appointees of the Senate Committee on Rules shall
34 include an environmental member with expertise in air quality,
35 and a representative from the inspection and maintenance
36 industry.

37 (D) The appointees of the Speaker of the Assembly shall
38 include an environmental member with expertise in air quality,
39 and a representative of a local law enforcement agency charged

1 with prosecuting violations of this chapter in an enhanced
2 program nonattainment area.

3 (4) In preparing its evaluations of program effectiveness as
4 provided in paragraph (1), the review committee shall consult
5 with the Department of the California Highway Patrol, the
6 Department of Motor Vehicles, and any other appropriate
7 agencies, as well as the department and the state board, shall
8 schedule and conduct periodic meetings in the performance of its
9 duties, and shall meet and consult with local, state, and federal
10 officials involved in the evaluation of motor vehicle inspection
11 and maintenance programs. At the request of the committee, the
12 department or the state board may, on behalf of the committee,
13 contract with independent entities to assist in the committee's
14 evaluations.

15 (b) The review committee shall submit periodic written reports
16 to the Legislature and the Governor on the performance of the
17 program and make recommendations on program improvements
18 at least every 12 months. The periodic reports shall quantify the
19 reduction in emissions and improvement in air quality attributed
20 to the program. On or before July 1, 2010, the review committee
21 shall, in consultation with the department and the state board,
22 include a discussion of the effectiveness of the visible smoke test
23 component of the inspection and maintenance program, including
24 the impact of the visible smoke test on the smog check industry
25 and vehicle owners who fail the test, and an estimate of the
26 reduction in particulate emissions, in the periodic reports
27 required by this subdivision. Any reports, other than those
28 required by this section, that the review committee is required to
29 provide pursuant to this chapter shall also be transmitted to the
30 Secretary for Environmental Protection and the Secretary for
31 State and Consumer Services.

32 (c) The review committee shall work closely with all
33 interested parties in preparing the information required by
34 subdivisions (a) and (b) and shall consider the reports provided
35 pursuant to subdivision (e). The review committee shall hold at
36 least one public hearing on its findings and recommendations
37 prior to submitting its reports. The reports shall include statutory
38 language to implement its recommendations, and shall
39 recommend the timeframe for making any changes to the
40 program. The review committee shall seek comments from the

1 department, the Department of Motor Vehicles, the Department
2 of the California Highway Patrol, and the state board prior to
3 submitting its reports, and those comments shall be published as
4 an appendix to the report.

5 (d) The review committee shall participate in the
6 demonstration program authorized by Section 44081.6, as
7 provided by that section.

8 (e) The state board, in cooperation with the department, shall
9 periodically submit reports to the review committee. The reports
10 shall include an assessment of the impact on emissions of
11 continuing the exemption from inspection of motor vehicles
12 newer than five years old; a comparison of the actual mass
13 emissions reductions being achieved by the enhanced program to
14 those required by the State Implementation Plan; and
15 recommendations to improve the effectiveness and
16 cost-effectiveness of the program, including specific
17 recommendations addressing any discrepancy between emissions
18 achieved and those in the State Implementation Plan. The first
19 report shall be submitted not later than January 1, 2000, and
20 reports shall be submitted triennially thereafter. In preparing the
21 reports, the state board shall use data collected during inspections
22 and repairs, and data collected using roadside measurements, and
23 may conduct additional testing, as determined to be necessary, to
24 accurately quantify the mass emissions reduced.